BOMBAY COURIER.

AUSPICIO·REGIS·ET·SENATUS·ANGLIÆ

IT has been Resolved, that all Advertisements which appear under the Signature of the Secretary to Government, or of any other Ocers of Government properly authorised to publish them in th Bombay Courier, are meant, and must be deemed to convey official Notification of the Board's Orders and Regulations, in the same anner as if they were particularly specified to any Servant of th Company, or others to whom such Orders and Resolutions have a Reference

BOMBAY CASTLE, 27th September, 1798.

JOHN MORRIS, Secretary.

VOL. XXI.] SATURDAY AUGUST 24, 1811. [NUMBER 990.

FORT WILLIAM.

Public Department, July 24, 1811.

NOTICE IS HEREBY GIVEN, THAT all the Promissory Notes of this Government standing on the General Register of this Presidency from No. 15,501, to 16,000 of 1810-11, will be discharged at the General Treasury, on Friday the 20th of September next, on which day the Interest thereon will cease.

Published by Order of His Excellency the Vice President in Council,

(Signed) C. M. RICKETTS,
Sec. to the Government.

A True Copy.

(Signed) C. M. RICKETTS,
Sec. to the Government.

Published by Order of the Hon'ble the Governor in Council,

J. FARISH,
Acting Sect. to Govt.

BOMBAY CASTLE,
23d August 1811.

ADVERTISEMENT.

APPLICATION hath been made, to the Hon'ble the Court of the Recorder of Bombay, that Letters of Administration, of the Estate and Effects, of JONATHAN THORPE Esq. deceased, late President of the Medical Board on this Establishment, may be granted to Mrs. JOHANNA-MARY THORPE, the Widow of the said deceased.

Bombay, August 19. 1811.

Edinburgh LUNATIC ASYLUM.

TO THE HONORABLE
JONATHAN DUNCAN,
GOVERNOR OF BOMBAY.

THE Managers of the EDINBURGH LUNATIC ASYLUM beg leave to inclose to the Honorable JONATHAN DUNCAN an Address to the Public on that institution, and a short account of its origin. These they earnestly recommend to an attentive consideration; and they may also further add, that the EDINBURGH LUNATIC ASYLUM is intended, not merely as a local, but as a National Institution, into which the Insane will be admitted, on the same terms from every part of Britain, and where they may receive the advice and assistance of any practitioners in EDINBURGH, whom their Relations may chuse to employ.

Those whose circumstances do not enable them to pay Medical Practitioners, will be supplied gratuitously both with advice and Medicines; the person, or the Parish who sends them, being charged only with a very low Board for their Maintenance, and with the expence of such Clothing as the Managers may find it absolutely necessary to furnish to them.

When a Patient, sent to the Asylum, is in such circumstances, that his Relations are willing to pay for the least accommodation, he will not only be attended by any Medical Practitioners whom they may chuse to appoint, but be under the immediate care also of his own Servants, and have a House and Garden within the walls of the Asylum appropriated to his own use.

With this view, the ingenious Architect Mr. Reid, to whose gratuitous exertions the EDINBURGH LUNATIC ASYLUM is very much indebted, has introduced into the plan three small Houses, each in the middle of a small Garden, and conveniently accommodated for the reception of a single individual subjected to Mental Derangement, whose Relations may wish, that while the care of his health is entrusted to those Physicians whom they have employed with a view to his recovery, the care of his person should be confided to such Keepers or Servants they may chuse to appoint.

Thus the EDINBURGH LUNATIC ASYLUM, if Money can be procured to complete the whole of the intended Plan, afford Conveniences in the Cure of Insanity, which are not perhaps to be obtained in any similar institution. On this ground, the Managers flatter themselves with the hope, that they may receive some assistance from the Benevolent and Patriotic, in every part of the British Empire. And money is only wanted from the Public to complete the building; for, after that is finished, there can be little doubt, that the institution will support itself.

Edinburgh,—February 1808.

Subscriptions will be received at the Office of Messrs. FORBES and Co. where the Address to the Public and Plan of the Institution alluded to in the foregoing letter to the Hon'ble the Governor may be seen.

Bombay, 1st August 1811.

SUBSCRIPTIONS FOR BUILDING *A LUNATIC ASYLUM* AT EDINBURGH.

We agree to pay the sum annexed to our respective names, for erecting a Lunatic Asylum at Edinburgh, under the Superintendence of the Lord Provost of the City, the Lord President of the Court of Session, the Lord Justice Clerk of the Court of Justiciary, and other Trustees named in His Majesty's Warrant for a Royal Charter.

Jonathan Duncan	Rs. 200	0	00
J. Elphinston	100	0	00
Jonathan Thorpe	50	0	00
George Keit	50	0	00
Charles Forbes	200	0	00
W. T. Money	50	0	00
D. Inglis	50	0	00
Hormarjee Bomanjee	80	0	00
J. H. Stephenson	50	0	00
Michie Forbes	100	0	00
Henry Roome	50	0	00
John Stewart	50	0	00
N. H. Smith	50	0	00
H. Munro	50	0	00
William Forbes	50	0	00
Richard Peterson	15	0	00
Edward Baker	50	0	00
William Ashburner	50	0	00
O. Woodhouse	50	0	00
G. Lukin	30	0	00
H. Ellis	40	0	00
L. Smith, Lieut. Col. 65th Regt.	40	0	00
W. J. Hamilton	50	0	00
E. Taylor	40	0	00
Francis Warden	40	0	00
Alexander Hay, Lieut. Col.	50	0	00
J. Inverarity	50	0	00
William Mackintosh	50	0	00
D. Christie	50	0	00
William Newnham	50	0	00
Major William Cowper,	50	0	00
Captain William Smith,	50	0	00

SECOND Madras Government LOTTERY FOR 1811.

MESSRS. FORBES and Co. have received for sale, a few tickets in [redacted]

[redacted]

Baxter, Ferrar & Co.

MONDAY next the 26th instant,
WILL BE SOLD
BY PUBLIC AUCTION
AT THEIR ROOMS
IN MEADOW STREET,

[redacted] Europe Buggies.
[redacted] Chariots.
[redacted] Phaetons imported per ship Mil[redacted] England.
[redacted]ut 40 Bags of the best Bengal [redacted] bags of Sago, a few Coils [redacted]ope and about 6 dozens of re[redacted] Champagne imported per Union. [redacted] Articles of furniture &c. &c. &c.

Bombay 24th August 1811.

[redacted]OR SALE.

AT MESSRS J. MITCHELL & Co's.

AN Elegant Assortment of Ladies Straw Hats, Bonnets &c. &c. Also Wreaths of Flowers &c.

Bombay, 24th August 1811.

ADVERTISEMENT.

On WEDNESDAY next the 26th instant
WILL BE SOLD
BY PUBLIC AUCTION,
AT
Messrs. J. Mitchell & Co's.
AUCTION ROOMS,
ON ACCOUNT OF THE CONCERNED.

[redacted] Cases of Large Marble Slabs; [redacted] 11 Cases of small ditto ditto; [redacted] large Carboys of red and white [redacted]ine, and about 30 small Car[redacted] ditto ditto, 1 long fell Blackwood [redacted]ables, a four Barrell'd Organ; [redacted] Eight Liglit Hanging Lustre; [redacted] o'clock an elegant Bengal Cha[redacted]y imported with Harness &c. &c.

Bombay 24th August 1811.

ADVERTISEMENTS.

MR. BOYCE presents his respects to his Friends and the Public and begs to inform them that having purchased the Investments of the Union and Cornwallis he has for Sale at the Warehouses underneath the Tavern a valuable Assortment of Europe Articles—Amongst which are the following.

Pale Ale in Butts and Hogsheads from Hodgson.

Wired Porter, Pale Ale—Brown Stout, and Mildwelsh Ale, from Harper and others.

Claret and Port Wine, from Maxwell and Key.

Champagne, Old Hock and Vin de Grave.

Novau, Cherry and Raspberry Brandy, Rum Shrub and Capillaire.

Brandy, Gin and Old Jamaica Rum.

Hams, Cheese and Bacon.

Jews Beef, prime Pork, Tongues, Tripes and Salted Salmon.

Oatmeal and Pearl Barley.

Macaroni, Vermacelli and Isinglass.

Bloom Raisins and Currants.

Jams, Jellies and bottled Fruit for Tarts, from Hoffman.

Oilman's Stores from Gordon and Emmott consisting of Sauces, Pickles, Olives, Sallad Oil and Anchovies.

Orders from Outstations shall be received with thankfulness and executed with care and despatch.

Mr. Boyce has also received a fresh supply of Bengal Provisions consisting of Rotiods, Briskets, and Humps, Tongues and Butter.

BOMBAY TAVERN
23d August 1818.

FOR SALE,
AT THE
Courier Office,
THE
INDIAN KALENDAR
FOR THE YEAR

THE COURIER,

BOMBAY,

SATURDAY, AUGUST 24,

GENERAL ORDERS.

BOMBAY CASTLE, 17th, AUGUST 1811.

By the Hon'ble the Governor in Council.

THE Hon'ble the Governor in Council is pleased to appoint Captain Andrew Aitcheson to be his Military Secretary.

Bombay Castle, 19th August 1811.

The death of Jonathan Thope Esq. Late President of the Medical Board, having made a vacancy for a Surgeon on the Establishment; the Hon'ble the Governor in Council is pleased to direct, that the Senior Assistant Surgeon Dougal Chrillie be promoted to Surgeon vice Thorpe deceased,—Date of rank 6th August 1811.

The Hon'ble the Governor in Council is also pleased to allow Lieut. Edward James of the 2d Battalion 6th Regiment N. I. to proceed to Europe on furlough on his private concerns.

The Hon'ble the Governor in Council is pleased to permit Assistant Surgeon William Thomas of the 2d Battalion 1st Regiment to proceed to sea for the benefit of his health with leave to be absent from his Corps and duty for three months from the date of his embarkation.

The decease of Major James Lloyd of the 3d Regiment of N. I. being of a prior date to the casualty occasioned by the removal of Lieut. Charles Rose to the Invalid Corps; the Hon'ble the Governor in Council is pleased to direct that the following alterations take place in the appointments announced in the General Order by Government of the 29th of inst.

Third Regiment.

Lieutenant H. R. Deleuamps, Supernumerary in the 3d Regiment, to come on the Establishment in succession to Lieut. J. Stewart promoted;—Date of rank 17th January 1811.

Senior Ensign Robert Ogilby to be Lieutenant vice Rutherford removed to the Invalid List,—Date of rank 1st July 1811.

Bombay Castle, 20th August 1811.

The Hon'ble the Governor in Council is pleased to appoint Captain Watkins of His Majesty's 69th Regiment, Honorary Aide-de-Camp to the Hon'ble the Governor.

By Order of the Hon'ble the Governor in Council,
F. WARDEN,
Chief Secretary.

Extract from the London Gazette dated the 2d of March 1811.

DOWNING STREET, MARCH 2, 1811.

His Royal Highness the Prince Regent has been graciously pleased, in the name, and on the behalf of His Majesty, to appoint Robert Townshend Farquhar Esq. to be Governor of the Islands of Mauritius, Bourbon, and their dependencies.

True Extract,
(Signed) C. TELFAN,
Sec. to Govt.

Published by Order of the Hon'ble the Governor in Council,
J. FARISH,
Act. Sec. to Govt.

BOMBAY CASTLE,
23d August 1811.

The following Proclamation, of which we have been favored with the translation, and which issued at Lyon on the 30th March after the retreat of the French, will we trust be read with interest.

ADDRESS OR PROCLAMATION BY THE GOVERNORS OF THE KINGDOM OF PORTUGAL AND OF THE ALGARVES TO THE PORTUGUESE PEOPLE.

PORTUGUESE,—The day of our glory is at length arrived—the enemy's troops put to a shameful flight and defeated in all points, rapidly retreat out of the Portuguese Territory, which they have infested with their presence. The Governors of the Kingdom congratulate themselves, and you on this happy event; and, after humbling themselves before the Almighty First and Sovereign author of all good, render the thanks which are due to His Royal Highness the Prince Regent our Lord, whose profound wisdom established the [illegible] His Britannic Majesty, to [illegible] British nation [illegible] and pow[illegible] common[illegible] of ruins as history [illegible] with which they were treated, whom these vandals did not murder—insults much more cruel than death itself; in the universal devastation of the fields and their produce, the cattle and implements of husbandry, and the plunder of all that the unhappy inhabitants of this desolated country possessed; this atrocious picture which makes humanity shudder, affords a terrible lesson, which you must deeply engrave in your memory to retain an accurate knowledge of this degenerated nation, which human nature preserve, but the form—being in everything else worse than the brute creation, and more thirsty of blood than tygers and lions. Unfortunate are those who rely on their deceitful promises! Victims of an indiscreet credulity, a thousand times will they repent themselves, but in vain, the levity with which they placed confidence in the promises of a people destitute of every moral principle; of men who do not recognize the rights of humanity, nor the sacred obligation of an oath. Under these circumstances the only alternative, which is left us, is resistance or retreat—the means of the first consist in the efficiency of our military force; the second is a law which the duty of saving life and property imposes on all peaceable Citizens. By evacuating the villages where they side; by transporting every thing that they can carry, and destroying what they are obliged to abandon, and which might serve for the subsistence of the enemy, they avoid the horrors of the most infamous slavery, throw themselves into the arms of their countrymen ready to receive them as brothers and assist the operations of war by depriving the traders of the means of maintaining themselves in the territory they occupy; in this manner they will be useful to themselves; for the enemy finding that he cannot subsist himself in positions where provisions are not procurable will immediately retreat, and the inhabitants by being restored to their habitations will neither suffer the inconvenience of a long absence, nor find the houses and fields in that state of total destruction, which the enemy would leave them in, if they were to remain here for a longer time.

Here Portuguese are lessons of experience, which we must never forget.

But amidst so many disasters, providence has been pleased to give us motives of consolation to mitigate our distress.

The unfortunate, who were flying from the fury of their cruel oppressors, found a sure asylum in the humanity of their fellow Citizens. In every place to which they resorted, they were received with open arms. The inhabitants endeavoured to relieve them by every means in their power: Houses were filled with emigrants and we often beheld with tears of tenderness the generous sympathy of those who disputed among themselves to be the first to entertain the strangers who repaired to this capital, without the means of shelter or subsistence.

The Government immediately gave the most seasonable assistance to the needy; but the scarcity of the public funds which are hardly enough for our defence, would have rendered this assistance ineffectual, if many private individuals had not contributed with liberal hands to a work so much recommended by humanity as well as by Patriotism.

Under the inspection of an illustrious tribunal, which advanced part of the contribution and by the wise and oeconomical aid given by a distinguished member of that institution, and carried into effect by zealous and intelligent officers, many miserable fugitives were supported, and many were saved from the jaws of death. This great expence was defrayed not alone with what the government had at it's disposal, but principally by considerable donations offered by the generosity of our countrymen and by strangers, amongst whom must be noticed with particular distinction the subjects of his Britannic Majesty, those who are employed in the army, or attached to the diplomatic corps, or comprehended in the mercantile class. These acts of Patriotism and Christian charity did not limit themselves to the capital and its vicinity. In all other parts of the kingdom where the fugitives repaired, the same hospitality was extended to them, and they were received with the same brotherly kindness and liberally supported as far as the means would permit.

The Governors of the kingdom return thanks to all, in the name of the Prince Regent our Lord, for such signal services which have saved the lives of so many of his subjects, and diminished the calamities inflicted by the scourge of a destructive war. They will have the honor of submitting their names to his Royal Highness who will delight to bless the sovereign of a people so loyal, and patriotic, so generous and so Christian.

Nothing now remains to complete the great work but to promote the return of the fugitives to their homes, to render the villages habitable, which the barbarity of these robbers have left [illegible] with filth and and the unburied remains of the dead; to minister medicines and nourishment to the sick [illegible] are perishing for want of these aids; to revive agriculture by assisting the husbandman, with loans, or with cheap commodities, by furnishing him with seed and bread to supply his present necessities, and by facilitating by every means the purchase of cattle and the implements of husbandry.

These have been the assiduous cares of the Governors of the kingdom and without losing one moment they have devoted to these objects all the means which they possessed and given every assistance which appeared to them most prompt and efficacious.

But in this respect they have also much to be grateful for, to the generosity of the Nation, and to the liberal co-operations, afforded in the name of his Government, by their Illustrious Colleague the minister of His Britannic Majesty—many private individuals render themselves useful with the greatest patriotism, by concurring in so laudable an undertaking, some making large donations of Medicines for the sick; others taking upon themselves gratuitously to transport the Grain, distribute it at cheap rates; and others projecting the establishment of granaries in countries where the article was most wanted, do every thing at their own expence for the relief of the wretched, whose wants they bountifully and speedily supplied.

Portuguese, your troubles are the crucible, in which the merits of men are put to the test—you have passed the proof, and the result has been glorious—you are a great Nation, a Nation worthy of having for progenitors the Heroes which illustrated the cradle of the Monarchy, worthy of having for a Sovereign a Prince, who is the model of every virtue—preserve these sentiments unalterably, trust in your Government, as the Government trusts in you,—cement more and more the union between you and your countrymen, and between our generous Allies who are our real Brothers—Let one spirit, one will alone direct the common efforts; and if any one should attempt to sow the seeds of discord, let us cast from our bosom the venomous Serpent, and seal with his blood the ratification of our indissoluble alliance.

Act up to these maxims with the same constancy, with which you have hitherto done, and you will be invincible.

Palace of the Government; 30th March 1811.

(Signed)

Bishop Patriarch elect	Marquis Monteiro Mor
Principal Souza	Count of Redondo
Charles Stuart	Richd. Raymond Naqueir

BOMBAY.

ARRIVAL.—Surgeon Hill Morgan.

DEPARTURES.—Lieut. E. M. Wood, 2d Batt. 7th Regt.

Lieut. J. McDonald, European Regt.

Capt. E. Kenny, 2d Battalion 7th Regt.

Assistant Surgeon Johnston, 1st Batt. 6th Regt.

BOMBAY.

BIRTH.]—On Monday last the 19th, Augt. the Lady of William Erskine Esq. of a daughter.

MADRAS.

DEATHS.—At Arcot, on the 4th instant, the Lady of Gilbert Briggs, Esq. Surgeon on this Establishment—No one was ever more sincerely and deservedly lamented, for none was more beloved and esteemed by those who knew her.—Prematurely cut off at the early age of 23 years—her loss must long be felt as the most affectionate of wives and the best of mothers.

At the Presidency, on Sunday the 4th instant, aged 4 years, Miss Lydia Haslewood, daughter of Lieutenant Colonel Haslewood.

NAUTICAL CHRONICLE.
AND NAVAL REPORT.

BOMBAY.

On Sunday sailed the H. C. Extra ship Carmarthen for England.

Passengers by Carmarthen.

Dr. George Keir,—Mrs. Keir,—Miss Goodwin,—Mrs. Diggle and 3 Children,—Mrs. Eyre and 4 do.—Capt. and Mrs. Hind,—Mr. and Mrs. Nicholson,—Capt. Glas and Capt. Hicks,—Lieut. Parker,—Lieut. Edwards,—Lieut. Drummond,—H. Ellis, Esq.—Assist. Surgeon Young,—Master Hickes,—Master Clephane Darel Wilson,—Miss Wilson,—Mr. Lloyd,—Mr. Masterman.

On Tuesday the Hon'ble Company's Extra ships Union and Northampton for Madras.

Passengers by H. C. Ship Northampton.

Mr. Inglis and family,—Mr. Crawford and family,—Miss Tindall,—Lieut. Pelly,—Assistant Surgeon Johnstone,—Mr. Tidmarsh,—Alexander Hodge,—and 3 Russian Prisoners,—Detachment of H. M. 84th Regiment.

By H. C. Ship Union.

Mrs. Moir,—Miss Perry,—Miss Rogers,—Capt. Burns, 84th Regt. with a Detachment,—Lieut. Jeffrey, M. N. C.—Lieut. Casement, N. I.—Mr. Moir, Paymaster,—Mr. Browne,—Mr. Alexander Milne, Assistant Surgeon.

CALCUTTA.

MONDAY, JULY 29, 1811.

The Bheemoolah was at anchor off Mud Point, when the report of Saturday was despatched; and it is now expected, that she will get to sea immediately.

The H. C. Extra Ships Euphrates and Monarch, still remain at Saugor; and (as far as we can collect) no certain period is yet fixed for their departure; though it is not likely to be much longer postponed.

We are extremely sorry to learn, by accounts yesterday received from Kedgeree, that the ship Indian, Captain Barclay, outward-bound to China, has grounded on the Western flat in working out of the river. Considerable apprehensions have been expressed for her safety; but we hope, they will prove without foundation.

We have the pleasure to say, that the ship Indian, which we stated in our paper of this morning to have taken the ground on the Western flat, in working out of the river, has again floated. She makes no water, in consequence of the accident; and is not supposed to have sustained any material injury.

JULY, 31.

Apprehensions have been expressed for the safety of His Majesty's frigate Barbadoes, which left Madras on the 17th Feb. bound to the Cape of Good Hope, and England—She is stated in late accounts from the French Islands, not to have arrived at the Cape on the 17th May. We have much satisfaction in contradicting this report which is evidently founded in mistake; as answers have been received in Calcutta from the Cape, to letters that were forwarded by the Barbadoes. It appears that she touched at the Cape in April. Captain Hodson, Commander of the Barbadoes, and several of his Officers, were on shore on the 13th of February, at Cape Town; and the frigate was preparing to sail immediately for England. The Public may rely on the accuracy of this informaton.

The destruction of the ship Thomas Henchman by fire, took place in Malacca roads, during the night of the 24th or 25th of May. The flames suddenly burst up through the main hatchway, and spread with such violence and rapidity, that every effort to check their devastation proved ineffectual. By half past twelve, when the last of the crew quitted the ship, the heat and smoke had become altogether insufferable. She did not blow up however, until near eight o'clock on the following evening. A letter from Malacca of the 29th of May, states, that she had on board, at the time of the fire, about 100 barrels in all of gun-powder and cartridges, besides two six pounders, and two five and a half inch howitzers. Colonel Wood was on board the Thomas Henchman, at the time of the accident; and lost nearly the whole of his baggage. A report spread abroad in the first instance, that a lascar was the incendiary; but subsequent accounts give no confirmation to the story.

Digitized with financial assistance from the Government of Maharashtra on 08 April, 2017

SUPPLEMENT TO THE BOMBAY COURIER.

SATURDAY, AUGUST 24, 1811.

(Continued from the last Page.)

proceedings, by way of information, might be necessary to meet pressing exigencies, but still this very circumstance of the great expence to individuals was a ground, if not for distrust, at least for watching with extraordinary vigilance a power that placed the means of oppression in the hands of any one man. It was well known that the Attorney-General often preferred prosecuting the publisher rather than the author; that he sometimes kept the trial hanging over the head of the person accused for a considerable time, and after conviction, did not for months together move for the judgment of the Court against him; there was every appearance of his being kind only to those who were politically interested in support of the measures of Government; and under all these circumstances, that man's mind must be strangely formed, indeed, who did not entertain some suspicion of a power that was so exercised. Sorry, he was to say also, that he saw a tendency and disposition in those to whom the administration of justice was confided, to encourage those laws with regard to ex-officio informations. Feeling as he did the highest respect for the Noble Lord who presided in the Court of King's Bench, it was painful for him to say, that the powers lodged in those to whom the Administration of justice was confided, appeared to him to have been in some instances converted to an unnecessary aggravation of the punishment. He thought that the Judges legally possessed the power of sending persons convicted of libels to any of his Majesty's prisons; that power might be exercised for the greater security of the offender's person, or even for his personal accommodation; but then it ought not to be converted into an aggravation of his punishment. That, however, must necessarily be the case when a printer and publisher were confined in separate prisons, and at a great distance from the management of their concerns, which might prove actual ruin to them, and consequently one of the severest punishments that could be inflicted. He wished now to address a few words to their Lordships on the subject of special juries. So many reports had gone abroad on the abuses, to which they were liable, that some investigation should be made how far such reports were at all founded. He would say with Chief Justice Hale, that in Criminal cases Special Juries were less favourable for the criminal than Common Juries and that for reasons sufficiently obvious. Accordingly the law of England provided, that Special Juries should not be resorted to in capital cases, or cases affecting life or limb. In this, did not the law mean, that there was a danger of their being less favourable to the subject than they ought to be? But whatever might be in that, he did say, that if reports had very generally gone abroad of a nature unfavourable to Special Juries, it was high time that some enquiry should be made into the foundation of such reports, to shew either that the public idea was erroneous, and thus to satisfy the public mind, or to remove those abuses which were the causes of dissatisfaction. He trusted, their Lordships would believe that he was utterly incapable of throwing any imputation on the administration of the justice of the country; it was proper, however, that it should not only be pure, but absolutely without suspicion; and therefore was he anxious that those impressions which had gone abroad, particularly on the subject of Special Juries, should be completely done away, by calm examination, and the application of proper remedies if there was found to be occasion for them.

Their Lordships would allow him next to say a few words on the policy of these numerous prosecutions for libel. The only rational object of punishment was the prevention of crime by the example which was held out to the deterring of others. But the consequences of a libel were often aggravated and increased to a tenfold degree by the very prosecution which it called forth. If suffered to pass unnoticed in the periodical publications where they appeared, many of these libels would soon pass into oblivion, and be forgotten in a day or two; but by the very mode of prosecution they obtained a cheaper and more rapid diffusion, and if originally mischievous, their pernicious tendency was thus likely to be increased in a degree beyond all calculation. He did not mean to argue against prosecutions at all, but rather to recommend the exercise of a proper discretion.

The circumstances which he had stated were in his mind sufficient to justify some investigation, and to lay a ground for the motion with which he should conclude. But he would then state what ulterior proceedings in his opinion should be adopted, were his motion agreed to. In that case, he should wish to propose certain resolutions to the consideration of the House; one of which would be, to confine the filing of ex officio informations within the lapse of a certain period after publication of the paragraph or paper charged with being libellous. By a second resolution, he should propose that it be compulsory on the Attorney-General to bring the matter to trial within a certain time, or to state to the Court the reasons why he does not; and that after a verdict had against the defendant, judgment should be prayed against him within a certain limited period. In addition to these resolutions, he should be disposed to move for the repeal of the late Act of Parliament on the subject of ex officio informations, which enabled the Attorney-General to hold to bail any one against whom he choose to file an information. We understood his Lordship also to state, that he felt inclined to move a censure on the present Attorney-General; but from the estimable qualities which he understood him to possess in other respects, and lest such a motion might produce in many of their Lordships an inclination to oppose any of the alterations he had now stated, he should decline submitting any such motion. He must also say, that there were strong principles in substantial justice which required that the defendant, when acquitted, should be paid his costs; but knowing that it was an essential principle running through the law of England, that the King paid no costs, he should not move any thing on that head.

He was aware of the plea by which his arguments were likely to be met, founded on the licentiousness of the press at the present period; but it was his opinion, that the press was not more liable to this charge than it had been at former periods. Look back at the history of all free countries, and it will be found that the men in power were constantly complaining of the licentiousness of public writers. If their Lordships looked back to the classical writers of our own country, they would find them indulging in language that would not be allowed at present. Mr. Pope, for instance, had the following line even on one of the Judges:—

"Hard words and hanging, if you're judged by Page."

Examine also the writings of Swift, and they would be found to contain much bolder language than what would be tolerated in modern times. The press ought not to be borne down by numerous prosecutions; otherwise it must fall into the hands of the venal, who would poison the minds of the people; or into those of desperate men, who sought only to live by calumniating the characters of others. But some might say, that whatever freedoms the press might take in former times in this country, all that was altered by the French revolution. This sort of feeling was held during the progress of that revolution, and then there might be some reason for it, for the doctrine that then prevailed at Paris was, that there should be no prosecution for the press. But it was very hard, that the effects of that revolution should rebound upon the English nation, after the lapse of so considerable a period. It was also sometimes insinuated, that by this licentiousness of the press, you added to the power of the enemy. But this was supposing that the writers who indulged in these freedoms were attached to Buonaparte; a supposition rather of an extraordinary nature, when the unrelenting despotism which that man exercised over the press of France was considered. Among all the abominable and atrocious acts of Buonaparte, none he believed would ultimately prove more fatal to the power of France, (and he said it with exultation,) than his complete suppression of every thing that bore the semblance of freedom of speech or freedom of writing. It was certainly possible that a licentious spirit in the press, if not checked, might produce disturbance and bloodshed in the country; but let not qualities and attachments be ascribed to it which it did not and could not possess. Neither a democratic spirit, nor the licentiousness of the press were likely to make friends to our inveterate enemy. The liberty of speech at Athens or at Rome did not in those Republics diminish the power of resisting the common enemy. Even during the French revolution, the licentiousness of the press, though it produced scenes of proscription, bloodshed, and horror did not weaken the energies of the French nation. It neither enabled the Noble Lord opposite to march to Paris, nor the Austrians to beat their enemies. It could not be denied, that though it marked out individuals to proscription and the scaffold, yet it had the effect of rousing the French nation to the successfull resistance of foreign invasion. That liberty of the press which Buonaparte thought it necessary for his security to put down, would in this country be found a powerful auxiliary to every good government, with a people who were strongly attached to their national habits, their glory, and their laws; and therefore he felt convinced, that all the circumstances of the times led to a conclusion directly contrary to that which he now combated. When the necessities of the country called for the greatest sacrifices from every individual, then was the time when it was proper to overlook even intemperate language, and when grievances of every kind should be most anxiously redressed. His Lordship conclude with moving, "That there be laid before the House a list of all the informations ex officio filed by the Attorney-General, from the 31st Jan. 1801, to the 31st Jan. 1811, with the names of the persons against whom the informations were filed."

Lord Ellenborough could not see any grounds in the statement made by the Noble Lord which called upon their Lordships to grant the production of the documents moved for. In the whole of that statement there was but one instance adduced as a proof of the abuses alleged to have prevailed, and even that instance was not at the side of severity—it was a case wherein a noli prosequi was entered by the Attorney General in the progress of an information against the Morning Post: and was it on account of such an exercise of discretion on the side of lenity too, that the Lordships were called upon to range through such a mass of papers as the motion comprehended? The time included was from 1801 to 1810. He was aware that that was a period which took in the time in which so humble an individual as himself had the honour of filling the situation of Attorney General. Whether the Noble Lord meant to refer to his conduct, he knew not; but as the Noble Lord was silent with respect to it, and made no allusion to it, he did not think it necessary to defend what had not been attacked; at the same time he must say, in reference to those Learned Gentlemen who have succeeded him in that office, that he did feel that their discharge of their public duty, and their discretion in the discharge of it, ought not to be put to the question upon grounds lightly or captiously taken up. He did not see why persons in such stations ought to be made the objects of invidious investigation upon grounds of hazardous conjecture *(hear hear!)*. As for the information sought for, what could the Noble Lord learn from those documents which he did not know already? If there were any matter of special interest to which he was anxious to refer, every facility in his (Lord Ellenborough's) power should not be wanting to the Noble Lord, to enable him to come at the required fact; but he was afraid that this was not the sort of facility that was either wished for or expected. He had reason to know that the facility with which inquiry in certain cases had been made, was painful to the parties making it. They might have their own reasons for wishing obstacles in the way of the information sought for; but with respect to one information required by the Noble Lord, if he had as yet met any obstacle, that obstacle he (Lord Ellenborough) should cheerfully assist to remove; but it was not to be informed that the Noble Lord had brought his present motion. The Noble Lord had talked in a high tone of an *obiter dictum* of Lord Hale's. If Lord Hale had ever said so, which he (Lord E.) believe he never had, his judgment must have been as dormant as in such case he must have wished the law itself to have been; but he never said so; it was not to be credited that a man so perfect in his knowledge of the laws and the Constitution as Lord Hale was, could possibly have said so. The law of informations not the law of the land! What was law if this was not? for it been made law by the same authority that had made all the laws that held the Government together. It was as much law as that which gave the Noble Lord the right of speaking in that House—it was as much law as the law which put the Crown of this realm on the brow of the Sovereign; but he would recommend the Noble Lord to trace back the law of information. He could recommend him a book upon that subject, and would refer him to the case to be found in page 119, of Shower's History of the Law of Informations. He would there find the Law of Informations to be as old as the Common Law. If the Noble Lord questions the expediency of the law, why not propose that it be repealed? but while it is law, Law undoubted and acknowleged, let him not question its legality—(Here Lord Holland intimated that he never had disputed its legality)—the authority of Mr. Dunning, unquestionably very high authority, and which had been so often cited by another Noble Lord, had been here relied on against this law. He was certainly good authority, but not, perhaps, at the side at which he had been here quoted, as he had himself taken an active part in libel prosecutions, and often pocketed the fees under this very law (*A laugh.*)—But it seemed that it had been made more grievous by recent enactments. He had expected something from the Noble Lord that night against the Indictment Bill. When the Noble Lord formerly opposed that Bill, he did not expect that this opposition would then have concluded—*nondum finitus Orestes*. The Bill here alluded to was an act made within the last four years, giving the Attorney-General power to hold persons to bail, against whom informations *ex officio* had been filed. On receiving notice of the Noble Lord's present motion, he was curious to know how often this Bill had been acted on. He inspected the necessary documents accordingly. And now he would ask their Lordships how often did they think this Bill had been acted upon since its enactment? but once (*Hear, hear!*) in the whole four years; there was but one solitary instance of its being acted upon—and he would tell their Lordships in what case that was—the case of a man, one Gorman, who, after having been prosecuted for a libel, and after an information had been filed against him, had the hardihood to publish it again (*Hear, hear!*)—And yet this was the mighty abuse of that act—this, forsooth, was one of the ruinous stretches of power which threatened the Government with subversion, and put the subject of George the Third on a par with those of Bonaparte! He knew nothing more to be deprecated in that House than violent and vague declamations, resting upon no grounds (*Hear! hear!* from Lord Holland). He was aware to what he subjected himself by what had fallen from him. The Noble Lord might call all that he had said a mere *tirade*; but in all that he had said, did he not bottom himself on facts. (*Hear! hear!* from Lord Holland.) The cries of the Noble Lord could not convince him that he had not. He was used to tumults and alarms—they never yet could put him down. Were he to die the next moment, he never would yield for one moment to tumult. The Noble Lord, if not towards him (Lord E.), might, at least in courtesy towards the House, adopt a different tone of exclamation. He repeated that he knew nothing more mischievous in its tendency than inoculating the public mind with groundless apprehensions of imaginary evils. Where there has appeared to him any instance of going beyond the limits of a wise discretion, it had never passed unbranded by him. His abhorrence of the licentiousness of the press was founded upon his love of liberty, which burned as strong in his breast as in that of the Noble Lord. If there was one mode more efficacious than another to ruin the liberty of the country, it was by generating that groundless distrust in the great Officers of Justice, which such needless and vexatious jealousy was calculated to inspire.

Lord Holland claimed of their Lordships' justice, their attention for one moment. He appealed to their recollection, both as to what had been said by him, and as to the manner in which it had been attempted to be answered. He would not say, merely, that the Learned Lord had not stated the facts, but he had stated what was directly contrary to the facts; the Learned Lord had charged him with denying the legality of information. He had not only not denied their legality, but had avowed his conviction of their legality. When the Learned Lord complained of want of courtesy, he should himself shew more courtesy to the recollection of the House (*here Lord Ellenborough, motioned to rise*). The Learned Lord who had been so long in the habit of enforcing the laws elsewhere, ought to be, at least, so far skilled in the laws and orders of that House, as to know that no Noble Lord had a right to interrupt another while in the act of explanation. There were other points to which, in strict explanation, he could not now perhaps refer, though it did fall within the limits of general parliamentary explanation to advert to. He had stated many other grounds, besides the solitary one commented on by the Learned Lord. Why was the Learned Lord wholly silent upon the numbers of informations which had been filed within a limited period? Was not this a ground, and had he not stated it? Had he not also stated the time which in many instances had been allowed to elapse between the information and the trial. Was this no ground? Had he not also mentioned the practice of hanging over the heads of the persons accused, informations which had been afterwards abandoned? The Learned Lord's speech, he repeated, was throughout a complete misstatement and misapprehension of his facts and reasoning. He should reserve what else he had to say for his reply at the end of the debate.

Lord Ellenborough, in explanation, said, that while the Noble Lord was professing not to dispute the legality of informations, he was, in fact, questioning it.

Lord Stanhope agreed with his Noble Friend (Holland), that he had been misrepresented by the Learned Lord. Every government thought the times in which itself was attacked, to be, no doubt, the most seditious. Were he, for instance, to attack the Noble and Learned Lord on the Woolsack, should he be disposed to give him a trimming, that Noble Lord might set him down as the most factious man in the country (*a laugh*). He censured the delay of holding informations over the accused, as done for the purpose of undue influence. As he was up, he would state his opinion of libels. There were two kinds; that against private character, and that levelled at the public conduct of public men. The former was base and unjustifiable, and this too whether true or false. They had no right to follow an habitual drunkard through the streets, at noon day; and stigmatize him as a drunkard, because this had a tendency to provoke a breach of the peace; it was not every man who had the temper of Lord Chesterfield; who, whom a fellow meeting one day on the pavement, took the wall of him, exclaiming, that he would not give the wall to every scoundrel he met; replied, taking off his hat very politely, "But I always do," at the same time giving the fellow the wall (*a laugh*). With respect, however, to public libels, the question was different—liberty, law, politics, religion, government, and the mode in which it was administered, were, he thought, the rightful objects of British discussion. He put the case of a person—suppose in Ireland, finding fault with the public conduct of the Minister of that country, and offering to prove his allegations true—in this case, he thought truth ought to justify, for if true the people were thereby informed of those evils, of which they might petition the removal. But private & public libels were so distinct in their nature, that he never knew any real enemy of the liberty of the press who did not wish to confound them. An old friend of his, an intimate friend of Lord Mansfield, and other men to whom he (Lord S.) had uniformly been politically opposed; this friend had been always speaking against the liberty of the press in the indecent attacks upon Lord Bute and the Dowager Princess of Wales, this friend replied—"It is better as it is—when the evil goes on to a certain pitch, it will carry its remedy along with it"—meaning thereby that he wished for the continuation of this licentiousness, in order that it might ultimately destroy the liberty of the press.

Lord Erskine said he should be one of the last persons in that House who should vote for a motion questioning the character or conduct of his Noble and Learned Friend. He had lived for a long time in a state of the greatest confidence with both the Bar and the Bench; it was not to be supposed that he would support a motion, the subject of which was professedly to throw a slur upon either. The motion had no tendency to bring into question the character or conduct of his Noble Friend; that the faithful administration of justice was the principle on which our Constitution rested, and it was not sufficient that it should be honest, but that it should be above all suspicion. With respect to the number of informations, he was not bound to draw any information exclusively from them, unaccompanied with any other evidence. The increase, taken by itself, might be accounted for in the increase of newspapers, from one at least to ten; this he did not state as justifying the number of informations, but as shewing the necessity of further inquiry. No matter what was the number, on the other hand, where no evidence had been given; there was a wholesome jealousy of the House of power wherever power had been vested by the Constitution, therefore was it that the subject, when prosecuted by a fellow-subject, had none of those advantages with which the law covered him when prosecuted by the Crown. If a common criminal be indicted for a felony by a private individual, though carried on nominally at the suit of the King, here the culprit knew nothing of his indictment till it was read to him on his arraignment; he knew nothing of his jurors. He (Lord Erskine) stood not there to criticise the law—it would not become him. He only wished to shew the marked difference made by the law in the case where the accused had to stand forth against the arm of power; there the law threw over him, all the shelter that the purposes of justice could permit it to afford;—when arraigned for high treason, the prisoner had a copy of his indictment; he was furnished with a list of his jurors—the pannel containing the names, description, and a bone; were these the most essential witnesses on the part of the Crown, and not known of ten days before the trial, they could not be brought forward—besides, the law which in all other cases admitted the uncontroverted testimony of one witness as conclusive, in the case of his high treason, required two. Again, if the prisoner was not brought to trial within a limited time, he was entitled to be let out on his bail. Here then were all those advantages given to a man accused of high treason—not surely to render the conviction of the most heinous crimes most difficult, but to enable a man whom the law yet presumes to be innocent, to fight fairly and sufficiently armed against the Crown and its influence. In the case of misdemeanours, by libel, was not the prosecutor the same, while the alleged offence, nothing so alarming; and why should not the same principle apply here? There was to be sure one point of difference—in the one case life was affected, but though in the case of libel, the accused did not receive a mortal blow, might he not receive a desperate wound? Was it not worthy of consideration, whether the time should not be limited? In a city like this, a libel appearing in any of the daily papers, could not long be concealed—it would be seen at once, and ought, if at all, at once be acted upon. With respect to Special Juries, he could not help thinking that the system was not without its defects. He had his doubts if it was not extremely defective. There was nothing like choice of his Jury on the part of the accused, as in the case of treason. He meant no improper reflection on the Gentlemen who compose those Juries, they were no doubt honest well-meaning men; but still they were certainly placed in a situation which might in some cases prove a great snare to themselves; they were all connected, in some way or other, with the Government, yet of such men must the defendant's Jury be made up; there they were, and he must take them for better or worse; while the person tried for high-treason can challenge 35 of the pannel peremptorily, and 35 even capriciously, by objecting to his face, the neighbourhood he came from, &c. If he were speaking in the presence of the Attorney-General, to whom he could mean no disrespect, he would ask, what was the end and object of prosecution? To deter by example; and was there any comparison between the two modes of proceeding as to their respective adequacy to so desirable a purpose? He adverted to the memorable case of the lunatic Hatfield, who had, in a manner so honourable to the enlightened feelings of a large assembly of Englishmen, been handed over to be disposed of by the laws of his country, at a moment of violent popular indignation; this respect for the law and the administration of justice, could not have been so rooted in the minds of Englishmen by any thing but their conviction of its equable and impartial efficacy. He concluded by stating, that highly as he valued the honours to which his Majesty had been pleased to call him, he should not have prized them so highly, if he did not think that, he did they descend to his remotest posterity, they would

enjoyed under a Government as free as that from which he had derived them.

Lord Eldon said that he could say with his Noble Friend that he also felt grateful for the honours with which a gracious Master had rewarded his humble services; and that humble as his efforts might have been, those who were to inherit those honours from him would know that he had done his duty. As to the distinctions which had been drawn between the proceedings in the case of treason and libel, it should be remembered that in the former the accusation rests upon general principles—in the latter upon an alledged specific fact. He believed that no Attorney General had prosecuted more libels than it had fallen to his lot to prosecute when he held that office. He acted on a conviction at that time, certainly, that the publication of libel was one of the most formidable weapons then wielded against the constitution; and that it was an engine which was directed to the subversion of the Government of the country. It was grateful to him to reflect that he had, by his conduct then, done his part towards its preservation. As to what had been introduced on the subject of special juries, he could not perceive how that was at all connected with the object of the Noble Baron's motion; but he would remind the House, that if any alteration was attempted in the present mode of regulating special juries, the same principle would equally apply to some change in the system of summoning common juries, who were all returned at the direction of the Sheriff. *(Hear! hear!)* He did not know the meaning of this exclamation, but he could assure Noble Lords he spoke for the purpose of being heard. *(A laugh.)* It was his decided opinion, that the mere fact of the number of prosecutions having increased, by a considerable number, in the last ten years, was not a sufficient ground for inducing them to accede to the motion of the Noble Lord. He must do that Noble Lord the justice to say, that he had, when the last act respecting *ex officio* informations was first introduced, given to it his strongest opposition. He himself unquestionably had approved of it, possibly from prejudice, and from the esteem in which he held its authors. He knew well that the person who now filled the office of Attorney General, for whom he felt the most sincere respect, had been greatly misrepresented. This, however, he did not lament—it was the natural consequence of the authority which he exercised, and it was also the privilege of a free people to view with distrust, and even with dislike, the necessary exercise of that authority. At the same time he must say, that a great deal of misconception prevailed in the public mind on the subject, and that if well and truly understood, it would appear that no public officer holding the same trust had ever displayed a larger portion of mildness and forbearance.—It would be been that he was the most forbearing prosecutor in the kingdom. *(Hear! hear!)*—His trust was of a description which it was not under the circumstances of the responsibility which he incurred, probable, if possible, that he should venture to abuse it. Much had been said by the Noble Lord (Lord Holland) of the great Legal Authorities that had set themselves against the general principle of *ex-officio* informations, but he must observe, that if those eminent characters had expressed opinions of this nature, they had been very inconsistent in that conduct. For however warmly they might have contended against these informations when engaged against the Crown Officers, there was, he believed, no instance of their refusing him their assistance whenever he invited it in carrying on the same *ex officio* informations—*(A laugh)*. After all the statements which had been made of the rigour exercised by virtue of the late Act, only one person had been held to bail, and it was in that aggravated case of an immediate republication of the libel, which had been already noticed. He recollected well, that when he was Attorney-General, a singular mode of doing the same thing was practised. As the prosecutor of a libel, he was obliged to state the libellous matter in the record, and this record of the indictment was, in many instances, itself immediately published, and the circulation of the libel thus ingeniously extended. *(A laugh.)* It was impossible not to be amused at the contrivance, but it was an evil which imperiously required a remedy. With respect to the circumstance of *The Morning Post*, he was desirous of stating that the principle which governed him, on those occasions, was to prosecute all the parties implicated in the publication of the libel, and he had uniformly found, that by extinguishing the papers, he got rid of the authors. Thinking as he did, that those who were charged with the judicial administration of the laws were entitled to their support, and ought not to be wantonly subjected to suspicion and reproach, without some plain and specific ground being laid for entertaining any motion that should be attended with such an effect; and thinking also, that no such ground had been adduced, and that to accede to it would only be to unhinge the public mind, and create unfounded alarms, he felt himself under the necessity of resisting the motion.

Earl Grosvenor remarked, that he rose only to state, that the arguments of his Noble Friend (Holland), unanswerable as they appeared to him to be, and unanswered as they had been certainly left by the Noble and Learned Lord (Ellenborough), had effectually determined his opinion. The Noble Lord, after several observations, declared his intention of supporting the motion.

Lord Redesdale said, that as it had not been his lot to institute any prosecutions for libel, while he was Attorney-General, he could at least give an unbiassed vote on this occasion. From his acquaintance with the gentleman who now filled that office, he was enabled to say, that he was sure no man could feel more pain than he in discharging the irksome duties of his situation. It had been insinuated, that he acted by the advice and under the direction of Ministers; he would not deny that this might be sometimes the case; but it ought to be remembered, that he alone was responsible. *(Hear! hear!)* If any blame was intended to be cast on him therefore, it should be done directly and explicitly. If it was the object of the Noble Mover merely to regulate the law as it now stood, this might be effected without the production of the documents for which he had moved. Upon the general subject of the freedom of the Press, it had been said, that where this freedom existed, no despotic government could long stand, and that without it no free state could long maintain its independence. If this was true, how powerful an engine must it be, and how careful ought not every Legislature to be to prevent its exceeding its proper bounds! And could any man assert that the Press was not now free in this country? With the examples before them of its licentiousness could any Noble Lord seriously say that the restrictions of the law had operated to crush or annihilate a due spirit of free discussion? Without some means of prosecution it would be vain to deprecate that licentiousness which existed now, and, perhaps, had always existed, and he was not disposed to think the law in its present state harsher than was necessary for the attainment of this purpose. If, however, the Noble Lord (Holland) was impressed with an unfavourable opinion of it, the most direct and proper mode would undoubtedly be to propose at once either a total repeal, or some modification of it.

The Marquis of Lansdown said, that after the very able and eloquent manner in which the subject under discussion had been treated by Noble Lords of distinguished talents and learning, he could have been well satisfied without offering himself to the attention of the House. But as he was anxious that the vote which he should give, if his Noble Friend (Holland) should divide the House, might be subject to no misconception, he begged shortly to state the grounds on which that vote would be given. And he was the more anxious to be clearly understood, after witnessing the extent of that misconception which prevailed in the mind of the Noble and Learned Lord (Ellenbourgh), upon what had fallen from his Noble Friend. Feeling, as he did, that the English language did not afford terms of sufficient energy and expression to enable him to signify the surprise he felt at that misconception and misrepresentation, he wished to guard particularly against a similar danger. He fully concurred in the opinions of the Learned Lords who had spoken that night, that the process of information was sanctioned by the whole practice of the Constitution, and bottomed on the earliest precedents of our history. He would go farther, and say, that he believed it to be a most necessary instrument of the Government. He had, during the short time he had passed in office, seen abundant evidence of the expediency of this mode of proceeding in cases connected with the execution of the revenue laws. Such a power he therefore conceived was properly lodged in the hands of the Officers of the Crown. But did any thing which his Noble Friend had said tend to question this proposition? *(Hear! Hear!)* So far from it, that he frankly and distinctly made this acknowledgement, and confined his Motion to an inquiry whether this just and necessary power had not been misapplied. *(Hear! Hear!)* In support of the grounds which he laid for this Motion, he quoted the opinions of Lord Hale and Mr. Justice Blackstone—opinions which had scarcely been noticed, much less controverted by the Noble and Learned Lords. His Noble Friend quoted those opinions in order to shew that the mode of prosecution by information *ex-officio*, regular and constitutional as it was, was at the same time a mode originally intended to be adopted only on certain especial occasions. He had listened with the deepest attention to the speeches of the Noble and Learned Lords, in expectation of hearing something that should controvert this doctrine. But no attempt whatever had been made by them for this purpose. The Noble and Learned Lord (Ellenborough) on the contrary, confined his exertions to the combating positions of his own, instead of those of his adversary, and he felt himself therefore justified in assuming, that Hale and Blackstone were right, since nothing had been offered to demonstrate that they were wrong. If then Mr. Justice Blackstone had described informations *ex officio* as a mode of proceeding of a most summary and peculiar character, not easily to be reconciled to the general spirit of the Constitution, as an instrument in the hands of the Crown to enable it to interpose in cases of enormous crimes, threatening immediate danger or ruin to the State; and if the object of his Noble Friend on understanding that in the course of three years 42 criminal informations had been filed, when during the six preceding years the number was but sixteen, was to procure an authentic statement of this fact, with what truth or propriety could he be charged either with irregularity or want of candour? Was not this the ordinary established form of proceeding for the purposes of Parliamentary investigation, and in what other manner was it possible to discover whether any power had been abused? His Noble Friend had laid a ground on which it became the duty of the House to inquire whether the increased number of prosecutions sprung from the law itself, or from the misapplication of it—*Hear! hear!)* The effect of his Motion could not be mischievous—it might be highly beneficial. It was at all periods beneficial to satisfy and assure the public mind, to dissipate its doubts, and extinguish its suspicions. If an extraordinary authority was exercised, the country ought to be convinced that it was not exercised except on principles of just government. If then the Motion should have the consequence of establishing this conviction, it would have a salutary operation: if, on the other hand, it should be followed by the detection of abuse, it would be a disrespect to the Noble and Learned Lords opposite to him, to suppose that they would not gladly co-operate in its exposure and condemnation, and in the task of bringing back the law to its ancient standard. When such a statement as had been made was before them of the extent to which criminal informations had been carried, it behoved that House to consider well the nature of this spreading innovation, and its possible tendency to supersede Grand Juries altogether *(hear, hear)*. It was certainly not the rule of the House to reject a motion for the production of papers, on the principle that the papers were already accessible to every body. It was always held necessary that such documents should be put on their own records, before any legislative step could be taken respecting them. So much for the form; in substance the motion went only to inquire into the cause of the vast increase in the number of prosecutions for libel. In voting for this inquiry, he did not feel himself pledged to any subsequent proceeding; they were discussing at present nothing more than the propriety of the inquiry—of an inquiry suggested by those wise feelings of constitutional jealousy which had hitherto proved the safeguard of all the liberties we enjoy.

The Earl of Liverpool stated, that when information was moved for, it was incumbent on the mover to shew the necessity that existed for its production. He could not consider the increased number of prosecutions as any evidence of unusual rigour in the Crown Officers. This increase was probably more properly to be ascribed to the prodigious increase in the number of periodical publications, called for by the general diffusion of knowledge. He did not think that the present age was more distinguished for the licentiousness of the press than any antecedent period; but it certainly had a much wider extent, from the great multiplication of newspapers and journals of every description. He knew it had been rumoured that the present Attorney-General had exercised a more than usual severity in the execution of his office. He could himself, however, bear witness to the contrary, and testify to the habitual mildness and constant lenity with which he had acted. Among the whole of the prosecutions he had instituted, only two acquittals had taken place. In many cases where an apology had been made, or the original named, all further proceedings had been stayed. He was satisfied that the Attorney-General had not only discharged his office with forbearance and ability, but that the country owed him the greatest obligations.

Lord Holland —" My Lords, whatever may be my impression that after the convincing arguments which have been so ably and forcibly urged by my Noble Friends in support of the Motion which I have had the honour to submit to you, that any reply on my part to the Noble Lords opposite is quite superfluous, there are still a few points of so peculiar a nature as to impel me to trespass on your attention with a few additional observations. And I trust I shall stand excused, which I state that I rise principally to notice those imputations which have been thrown out by the Noble and Learned Lord (Ellenborough) against me, of my want of candour and openness on this occasion. Certainly, my Lords, the habits of my life have not qualified me to display the judicial and dispassionate temper of that Noble Lord. However desirous I may be of such an acquirement, I much fear that in the discussion of questions involving the rights and interests of my country, I shall never equal the calm and dignified manner and language of the Noble and Learned Lord. He has talked highly, this night, indeed, of the contempt with which he views all endeavours that seem to imply any doubt in question of his public conduct, and he has expressed this sentiment of contempt in a manner that leaves no doubt of the sincerity of the feeling. I put it to the candour of the House, whether in the Noble and Learned Lord's representation of my statement he did not greatly err? *(Hear! hear!)* and whether in his sarcastic application of his epithet, *nondum finitus Oreites*, he has not totally misunderstood what I stated as my sentiments on this subject at a former period; I did venture to predict, when the Bill was under discussion, which afterwards became law, and gave to the Attorney General the power of holding persons to bail at his discretion, that it would prove the source of future discontent and irritation. This is the plain and distinct opinion which the Noble and Learned Lord has perverted into an anticipation that it would excite commotions and revolution, and end with prostrating the country at the feet of Bonaparte *(hear! hear!)*. I will appeal for the correctness of this explanation to the Noble and Learned Lord on the Woolsack, and in so doing I am sensible that, opposed as I have been to him on great political questions, and deeply as I have felt it to be my duty to reprobate and condemn many parts of his public conduct, that it is but justice to him to admit that no man unites with greater talents for acute and subtle argumentation, a larger portion of candour and fairness in debate. *(Hear, hear!)* In reference to the Motion now before the House, I believe that on such occasions as the present the regular course is that which I have adopted, to move for the production of the requisite information. I stated in the outset that my immediate object was not to alter but to regulate the law, and to regulate it by the spirit of that Act which was first passed to limit and define the authority of criminal informations, of that Statue the very preamble of which was drawn up expressly upon a discovery of the abuses to which that mode of proceeding had been applied. This preamble commenced with the words, " Whereas it appears that criminal informations have been often filed for improper purposes, it is necessary"—and it probably recited nothing but undoubted fact. The speech of the Noble Earl (Liverpool) is an ingenious defence, but unfortunately it is a defence of what has not been attacked. Can the Noble Lord overlook or deny the inference from this fact, not that the criminal informations have been multiplied, but that their proportion to the indictments which have been preferred, has greatly swelled? When the Noble and Learned Lord on the Woolsack was Attorney-General, the circumstances of the world, although they did not, in my opinion, justify unquestionably, afforded no trivial apology for a system of more than ordinary rigour and vigilance on the part of the Government at that period. Yet, pregnant with danger as it was represented to be, Parliament did make an inquiry similar to that which I propose. But I did not complain, as the Noble Lord (Liverpool) supposes in the case of *The Morning Post*, of the lenity which was shewn towards it by the present Attorney-General in entering a *noli prosequi* upon the information filed against it by Sir Arthur Piggott. But I did aver, that I could produce instances where the author, printer, and publisher have been all comprehended in the same indictment, as all accessary to the same offence, and instances also in which the copies of what was called a libel have been selected and preferred for prosecution to the original authors of the publication. I do not mean to impute any blame to the present Attorney-General, or to throw out the slightest accusation against him—he may have acted upon the best and wisest principles, and he may have displayed the most indulgent kindness and forbearance towards the general interests of the Press—My argument is, that the statement which I have made does afford *prima facie* evidence of the justice and expediency of an inquiry. I have cited the authority of Lord Hale, to shew that this power possessed now by the Attorney-General is one the exercise of which ought at all times to be watched with the strictest jealousy. The answer is, that he is singly responsible for his conduct; and it is an answer which in some respects I am happy to hear, because I have heard to much lately of a divided responsibility, which I must contend is no responsibility at all, but which furnishes the means of enabling a cabal completely to evade it. *(Hear! Hear! Hear!)* How is it possible, I ask, to found any Motion upon information which is not regularly before the House? And what stronger ground could be suggested for the production of such information than the *prima facie* evidence of the statement which I have made? The Noble and Learned Lord has asked me where I collected my knowledge of the sentiments entertained by Mr. Dunning? I must tell him from the history of the proceedings of Parliament. *(Hear! hear!)* A motion was made directly against *ex officio* informations, which was seconded by Mr. Dunning, and supported by Mr. Wedderburne. No less than 78 members voted for that motion, among whom were Mr. Burke, and Sir George Savile. I believe, too, although I will not positively affirm it, that doubts were then expressed how far this process was conformable to the common law of the land. My Lords, a statute once existed, which gave to the Lord Chancellor the right of preventing the publication of libel by issuing an injunction; this statute has been long repealed; it stands condemned upon your Journals: but this repeal could never have taken place, except upon information of the abuses which such a power had created. Information is then all I ask. I neither pledge your Lordships or myself to any ulterior proceeding. If my statement shall be confirmed, then it is my intention to propose some regulations appertaining merely to time, and limiting the periods to which the three stages of the process may be protracted. I have it not at present in contemplation to move the repeal of the late Act, but if no But for that purpose shall be received from the other House, I may hereafter do so. I have now, my Lords, only to say, that although I cannot agree in the opinion, that party feeling has an improper or dangerous effect, and believe on the contrary that it has a powerful tendency to preserve and maintain the purity and vigour of the Constitution, I deem it necessary to assure your Lordships that no such feeling has prompted the motion which I have this night submitted. As an Englishman attached to his country, as a Member of the Legislature anxious to see the laws of the land justly administered, I have only acted in obedience to the duties which those characters impose, in doing all in my power to promote an investigation, where there appears ground to believe the possibility of abuse."

The question was put and the House divided,

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FIFTH

Calcutta Lottery.

SEVENTH DAY'S DRAWING,

Wednesday, July 24, 1811.

No. 2008, a Prize of 10,000 Sicca Rupees.
No. 3164, a Prize of 5,000 Sicca Rupees.
No. 2552 and 5413, Prizes of 1,000 Sicca Rupees each.

Prizes of 100 Sicca Rupees each.

21	24	73	104	138	153	401	464
569	652	786	788	795	797	816	894
953							
1113	1236	1241	1281	1285	1309	1324	1329
1388	1398	1431	1448	1681	1688	1727	1809
1840	1861	1900	1963	1968	2026	2094	2102
2216	2222	2249	2251	2256	2284	2413	2435
2571	2707	2802	2811	2888	2889	2939	2947
3026	3110	3147	3148	3275	3339	3438	3441
3474	3562	3581	3588	3601	3741	3798	3876
3937	3994						
4006	4035	4051	4102	4129	4145	4176	4179
4205	4221	4278	4345	4412	4460	4495	4552
4634	4694	4697	4770	4791	4831	4967	
5109	5147	5221	5238	5249	5270	5324	5367
5389	5409	5432	5458	5462	5579	5582	5688
5739	5744	5767	5852	5856	5858	5924	5959
5975							

EIGHTH DAY's DRAWING,

Saturday, July 27, 1811.

No. 4183, a Prize of 100,000 Sicca Rupees.
No. 2287, a Prize of 10,000 Sicca Rupees.
No. 1327, a Prize of 5,000 Sicca Rupees.
Nos. 576, 1227 and 2403, Prizes of 1,000 Sicca Rupees each.

Prizes of 100 Sicca Rupees each.

69	71	74	93	223	275	280	376
406	409	438	507	583	587	616	642
725	735	760	826	847	911		
1004	1009	1047	1086	1168	1117	1196	1230
1234	1254	1264	1265	1326	1331	1345	1393
1402	1405	1411	1535	1581	1598	1655	1674
1675	1695	1793	1811	1973			
2164	2357	2378	2400	2475	2485	2503	2610
2626	2676	2680	2687	2705	2762	2784	2807
2839	2843	2915	2927	2971	2993		
3034	3054	3082	3153	3158	3182	3217	3346
3360	3372	3373	3400	3413	3460	3504	3517
3654	3666	3667	3699	3735	3784	3835	3872
3890	3986	3997					
4016	4049	4172	4207	4233	4437	4443	4494
4543	4553	4603	4608	4651	4652	4665	4704
4752	4768	4773	4867	4875	4930	4931	4958
4965	4977						
5002	5029	5045	5081	5208	5217	5235	5337
5363	5460	5477	5490	5536	5546	5560	5624
5636	5715	5801	5818	5850	5855	5882.	

NINTH DAY's DRAWING,

Monday, July 29, 1811.

No. 283, Prize of 50,000 Sicca Rupees.

Prizes of 100 Rupees each.

31	136	153	302	548	568	596	641	667
670	681	682	683	687	739	764	837	915
994								
1018	1129	1159	1163	1169	1198	1222	1257	1263
1296	1357	1406	1421	1547	1658	1659	1663	1667
1703	1732	1746	1771	1795	1863	1887	1903	1905
1915	1918	1991						
2127	2301	2311	2321	2341	2405	2419	2430	2442
2463	2476	2479	2587	2659	2683	2741	2770	2792
2830	2851	2874	3089	3118	3161	3231	3215	3259
3268	3633	3652	3678	3686	3702	3709	3779	3803
3831	3840	3864	3929	3966				
4072	4085	4127	4262	4209	4217	4244	4279	4292
4312	4307	4415	4442	4437	4479	4488	4539	4580
4708	4721	4812	4834	4839	4925	4975	4978	
5008	5009	5020	5025	5041	5058	5118	5143	5162
5195	5282	5311	5338	5354	5388	5405	5427	5438
5485	5478	5557	5620	5622	5720	5730	5861	5807

TENTH DAY's DRAWING,

Wednesday July 31, 1811.

Nos. 340 and 4796, Prizes of 5,000 Rupees each.

Prizes of 100 Rupees each.

4	20	63	79	98	160	241	255	272
290	303	397	416	455	460	503	628	690
778	825	890	904	964				
1000	1013	1136	1137	1172	1188	1342	1364	1446
1468	1517	1553	1690	1716	1720	1775	1789	1808
1832	1833	1897	1940	1948	1955	1964	1970	1986
1993	2052	2064	2128	2153	2163	2166	2167	2217
2345	2426	2427	2478	2544	2562	2712	2753	2759
2779	2796	2814	2820	2922	2923	2935	2969	
3015	3039	3064	3085	3088	3108	3213	3252	3262
3335	3358	3403	3412	3451	3459	3570	3580	4008
3615	2638	3685	3734	3737	3768	3817	3832	4368
4020	4093	4123	4193	4224	4251	4230	4355	4375
4419	4456	4458	4511	4544	4605	4622	3846	4621
4645	4730	4823	4879	4883	4959	4998		
5019	5085	5099	5180	5230	5242	5247	5260	5277
5379	5426	5475	5529	5535	5555	5587	5648	5668
5708	5754	5829	5842	5865	5959			

The vessel, which Captain Nichols had purchased at Malacca, and which had been taken up for the public service in lieu of the Thomas Henchman, was a small Java built ship, belonging to Mr. Cook of Malacca. Her burthen was about 380 tons; she was a perfectly new vessel, constructed entirely of teak, and was named the Subitiure.

The following is an extract of a letter, received from a gentleman on board the William Pitt Indiaman.

MALACCA ROADS, June 6, 1811.

"The Thomas Henchman Country Ship was "burnt on the 25th of May. The fire was "discovered in the evening, when the crew "left her; and, at day-light, the flames broke "out. At 7, she parted from her cables; and "with the flood tide, drifted towards us and "at last got so near, as to oblige us to slip "our cables and run out of the harbour. As "8, she blew up, within half a mile of us.— "It was the grandest sight I ever saw. "The Captain has brought a small ship here, "and proceeds on the expedition.

"June 6.—On the 3d, they embarked the "Sepoys on board of us again.—We have this "instant received orders, to start with the 1st "Division, tomorrow morning."

His Majesty's ship Phœnix, Captain Bowen was about to return from the eastward to Calcutta, in order to supply the place of the Dover, which was on the eve of returning to her station here when she was wrecked in Madras roads.

The Brig Hope, Captain Fraser, of this port, it appears, had proceeded from Sumatra, on a trading voyage to the coast, of Java, some time in the month of May. She was intercepted, however, off the coast, by His Majesty's Ship Minden; and, there appearing grounds to doubt the legality of her voyage, she was sent to Madras for adjudication. Captain Fraser has since arrived at Malacca.

EXTRACT OF A LETTER FROM BENCOOLEN.

"*Fort Marlborough, 26th May*, 1811.

"I have the pleasure to inform you "that the party of troops sent for Ba- "tavia, on board His Majesty's ship "Drake, touched at this place, all of "them in perfect health. Bantam is en- "tirely destroyed; the beautiful Fort "and Bridge at that place are levelled "to the ground. The boats of the sloop "of war Baracouta, went in lately close "under the walls of the Fort of Bantam; and "got out three very valuable prizes; one of "them is a Ketch, one a Paddywhacken, and "the third a large China Prow or Junk. We "have no news at Bencoolen worth mention- "ing, except the loss of our magistrate, Mr. "Perreau, who departed this life on Wed- "nesday the 22d instant. Captain Biale and "Captain Hodges sailed in company from "Fort Malborough to the eastward, and "Captain B. was a witness of the demolition "of Bantam. We want very much the Ben- "gal store ships; almost all our rice is ex- "hausted, and bread we cannot get, our "whole stock of wheat being expended."

MADRAS.

ARRIVALS.—August 2d, Brig Governor Keating, Captain D. Parker, from Bombay, left 20th July,—4th ditto, Brig Angelica, Captain J. Clement, from Bourbon, left 14th July—5th ditto, Ship Bridgewater, Captain P. Wallace, from Tappanouly, left 3d July,—8th ditto, Brig Eliza, Captain H. Sartorius, from Bourbon, left 5th July,—9th ditto, Ship Futtah ul Meara, Captain G. A. P. Gossford, from the Mauritius, 3d, and Bourbon, 13th July.

DEPARTURES.—August 6th, Ship Hope, Captain Chas. Eaton, to Manilla and China,—3d ditto, American Brig Pilgrim, Captain Charles Pearson, to New York.—6th ditto, Brig Jane, Captain A. Mcfarlane, to the Mauritius.—7th ditto H. M. Ship Phœnix, Captain James Bowen, on a Cruize.—ditto, H. C. Ship Metcalf, Captain M. Isaack, to Calcutta.—ditto, H. C. Ship Carnatic, Captain J. Swinton, to ditt.—ditto, H. C. Ship Castle Eden, Captain Colnett, to ditto.—ditto, H. C. Ship Rose, Captain James Saudilands, to ditto.

Calcutta Intelligence.

JULY 29.

EXPEDITION TO JAVA.

Nearly every important circumstance, relative to the progress of our expedition on its voyage to Java, which had been received by the late arrivals from the eastward, is already before the public. And we now only revert to the subject, for the sake of introducing such collateral details, as the communications made to us during the past week, may enable us to add, to those which appeared in the India Gazette of the 22d current.

The following is a more correct statement than has yet been given, of the several dates, on which the respective divisions of transports and ships of war took their departure from Malacca. The first division, consisting of about 16 sail, sailed on the 8th of June under convoy of H. M. ship Cornelia. The Caroline, with the second division under her charge started on the 11th. And the Phaeton, with the third division, sailed on the 14th. On the 15th, His Excellency Sir Samuel Achmuty embarked on board the Acbar; and that Frigate, together with the Commodore's flag ship the Illustrious, put to sea, in the course of the same day. The fourth division, escorted by the Barracouta and Hesper sloops of war, sailed on the 17th of June. And, on the morning of the 18th, the Bucephalus Frigate followed, with a few transports, which had arrived at a later period than the others, or had not been in readiness to sail with their respective divisions. The Right Honorable the Governor General embarked on board the Modeste, on the morning of the 18th; and that ship also left the roads, on the evening of the same day. The Malabar and Mornington cruizer, as we stated in our last, did not sail from Malacca till the 20th.

It appears from the general tenor of the letters received here from the Officers of the Bengal detachment, that the troops had experienced a good deal of discomfort and some privations during their stay at Malacca. The whole of that division of the force (with the exception of five companies of the 6th Volunteer Battalion, and two of the Light Infantry Battalion,) had reached that place during the month of May; and some part of them had arrived and landed, so far back even as the 28th of April. From that time, they had remained encamped under a hot sun, in a soil of deep sand, and exposed to frequent torrents of rain. Provisions, it may well be supposed notwithstanding the aids received from Penang were neither cheap nor abundant; and the crews of the King's ships had, for a considerable time, been on two thirds of their usual allowance. During their stay on shore, considerable sickness prevailed among the Sepoys. Out of 6000 men, composing the Bengal detachment, nearly 800 were at one time in the hospital. The men according to their usual notions, imputed this circumstance in general to the badness of the water; but it was referred by others, with more reason and probability, to the contiguity of the jungle and swamps of the interior to the place of their encampment. This sickness, however, was confined chiefly to the Natives; and, among them, was productive of few casualties. The Europeans enjoyed excellent health; and at the time of embarkation, there was not supposed to be a sick officer in the whole army.

Lord Minto had remained at Malacca, from the 18th of May to the 18th of June; and Sir Samuel Achmuty from the 28th of May to the 15th of June. The unexpected and irksome detention experienced at this place, was owing to the late arrival of the Madras and Ceylon detachments, (the latter of which it stated to have touched and watered at Bencooleen,) and still more to the extreme heaviness of some of the transports, which could hardly be made to obey the helm, and which consumed nearly an entire month, in the passage from Penang to Malacca.

The H. C. ship Batavia, while standing through the Straits, on her route to Malacca, struck on a hidden rock off Point Richards, and remained fixed in that situation for the space of eight hours, when the was at length brought off with some difficulty. It was understood however, that she had sustained no material damage.

After the junction of Commodore Broughton, no broad pendant was permitted to fly, on board any of the ships of the fleet, excepting the Illustrious.

When the fleet sailed from Malacca, it was understood, that they had provisions on board for about five months consumption. Their original stock had been served out with great œconomy; and the additional supplies, which they had collected, considerably exceeded their first expectations. It was believed therefore, that the loss of the Chichester at Madras, would be productive of no ultimate inconvenience.

The heavy sailing transports having been discharged at Malacca, it was calculated, that the whole expedition might reach its ultimate destination, in the course of a month, or, at the very furthest, in six weeks. It was intended to steer though the straits of Sincapoor,—from thence to make the nearest port of the Borneo shore, with as little delay as possible,—and, by working close to the land, and passing within the Caramate islands, to avoid the opposing currents which prevail in the middle channel, and, at the same time, to take advantage of the land and sea breezes, which prevail along the coast. The south-west point on Borneo was the general place of rendezvous. And from thence, it was not doubted, that the fleet would be enabled to fetch the coast of Java to the windward of Batavia, with little or no difficulty. The two first divisions, under convoy of the Cornelia and Caroline, had accomplished the first part of their voyage, within a shorter time than was expected; having severally passed through the Straits of Sincapoor, on the 13th and 14th of June.

Mean while, with respect to the state of affairs at Java, the most various and contradictory reports were daily obtaining circulation. At one time, the Dutch force amounted to 50,000 men; at another, it was reduced to 15,000:—one day, the most zealous preparations were going forward, for the defence of the island; the next, Daendels had as much to fear from his own troops as from those of his assailants. The most authentic accounts however, concurred in representing the Javanese army as a miserable rabble, and the great body both of the colonists and Native inhabitants, as extremely inimical to the existing order of things. Their disaffection had been shewn with less reserve, since they had seen the French flag displayed at the different posts of the island; and since the news of an approaching expedition from India had held out to them the prospect of an early refuge. Several of the Dutch Officers had deserted; and the violence of the measures which Daendels had adopted, to compel the Native youth of the island to enter into the military service, had contribnted to spread the sentiment of detestation among the lower orders. In some places, it is even said, that the conscription had been carried into effect which such rigour, that all who did not fly were impressed, women and children only were left to till the ground, and cultivation was nearly at a stand.

Mathew Law Esq. and Bissennaut Sein were brought up. Sir John Royds asked the Clerk of the Crown, whether there was any indictment against them; and Mr. Uredale replied, that there was none. They were then discharged by proclamation.

No. 283, which was this day drawn a prize of 50,000 Rupees, was purchased we understand, by Messrs. Alexander and Co. on account of W. A. Veneur Esq. of the H. C. Medical Service.

Madras Intelligence.

AUGUST 10.

APPOINTMENTS, &c.

Mr. Edward Smalley, Deputy Secretary to the Board of Trade.

Mr. Edward Clive, Assistant in the Office of the Chief Secretary to Government.

Major Crosdill, of the 1st Battalion Artillery, to proceed to Europe on furlough.

Captain Clason, of the 20th Regiment Native Infantry, to proceed to the Mauritius, on leave of absence for six months.

Captain Lieutenant Moncrieff, of the 2d Regiment Native Covalry, to proceed to England on furlough.

Ensign Thomas Dale, William Stokoe, and William Anslie, to be Lieutenants.

Yesterday arrived the Futtah ul Meera, Captain Gossport, from the Mauritius the 3d and Bourbon, the 13th of July.

PASSENGERS.

Sir William and Lady Nicholson, Doctor Gahagan, P. G. Major and Mrs. Vernon, Lieutenant and Mrs. Mackintosh—Officers and detachment of the 6th Regiment Native Infantry.

PARLIAMENTARY INTELLIGENCE.

HOUSE OF LORDS, MONDAY, MARCH 4.

LIBEL LAW.

At half-past five, Lord Holland moved the order of the day on the notice of motion he had given on this subject.

Lord Holland then rose, and commenced by observing, that their Lordships were summoned there that day on a subject of very great importance. When he first moved that their Lordships be summoned, he felt persuaded that the proposition he was to submit to them was so reasonable, so consistent with the usage of their House, so clearly deducible, not merely from the duties they had occasionally to perform, but the natural and necessary consequence of those duties which they should uniformly and unremittingly discharge, that he could not anticipate any opposition whatever. He had, however, received an intimation, that opposition would be made, and he took the opportunity of expressing his thanks for the politeness with which it had been intimated to him. He was sorry, at the same time, to observe, that it was from a quarter, whence opposition, on such a subject particularly, seldom proved fruitless. It became therefore necessary for him to dwell rather more at length than he had intended on the grounds of his motion, which was merely for the production of such documents as either were, or ought to be, public to all the kingdom, respecting matters that related to the public administration of Justice in the case of individuals accused of libels. To such a production he thought Parliament ought not to object. In another House, if it were regular for him to allude to its forms, he believed that a Committee of Justice was moved for, and appointed to sit every Session of Parliament, and whose duty it was to look at the administration of the Courts of Justice, to watch the conduct of the Crown law officers, and to see that they did not conduct themselves in a manner injurious to the liberty of the subject; not merely that they did not conform to the letter, but to the spirit of the law of the land. The forms of Parliament, therefore, shewed, that it was their duty to take these important matters constantly under their consideration. Nay, on this subject, their Lordships would find proof then before them, that there could be no just foundation for opposing this motion, by calling it a charge against the Courts of Justice, for they had before their Committee, recently moved for information of the number of prosecutions entered into in the Lower Courts, against persons for offences incurring capital punishments under the penalties of the Revenue Laws, and which that Committee was to examine and report upon. The object, then, was to shew the number and the nature of such prosecutions and convictions, which had been done in the discussion of other bills, and could not be said to convey the slightest imputation upon the judges: and he could not see why in this case, the same information might not be given with the same freedom from any imputation of that sort. He meant to throw no imputation upon the Learned Judges, for whom he had a high respect, for some of them personal friendship and admiration of their learning and wisdom. The general principle on which information was produced to their Lordships would, he thought, fully justify what he intended to submit, even *without* a reference to an abuse of the exercise of the power of the Attorney general. But, on that subject, he had to call to their recollection, that a bill had, within the last two or three years, been brought in at the fag end of a Session, which he unsuccessfully opposed, and which passed into a law, altering the old fundamental laws of the country—altering that which the stream of the laws proved to be the law of the land, without any reason assigned for it in the preamble of the act, except what had been since stated of the Revenue Laws. This act gave to the simple filing of an information, *ex officio*, by one man, possibly acting conscientiously, all the force which could be derived from the opinions of twelve lawfully chosen and sworn. For giving him by this Act the power of holding men to bail on his filing an information, no sort of reason was given in the preamble. When he expected that no opposition would be given to his motion, it was, perhaps, a proof of his own simplicity rather than of any thing else. When the law was thus altered, no papers were laid on the table to shew the necessity for it; nor any reason given, except, as he thought, that only and insufficient one, that by enabling the Attorney General to hold a man to bail, the facility of compelling his appearance was secured, and that his trial for the crime was thereby rendered more probable. Would it be said, that it was now improper to know what had been the effects of this alteration? By the production of the information he sought, they would see, first what its effects had been in the prevention of libels, and the correction of the licentiousness of the press; and whether those who were deemed libellers had been brought to a more speedy punishment. Let their Lordships take the opportunity of looking at this subject, at a time of the session which would afford them opportunity and leisure to examine and judge of the wisdom of this recent alteration of the law. These grounds appeared to him sufficient to justify any Noble Lords in voting for his motion, even though they differed from him in their opinions, and in the remedies which he thought ought to be applied.

On a subject with which the administration of the Courts of Justice was connected, he felt himself placed in circumstances that were to him personally unpleasant, and even disadvantageous. He had in the case of opposition much to fear; because, if he considered the abuse of the powers of the Attorney-General so great as to require the attention and interference of Parliament, he might be deemed favourable to the particular species of offence, and he might also be accused of great presumption in meddling with affairs of law, considering his education and habits. But, he must candidly say, that the probability of such accusations had little dread for him. (*Hear!*) If, in looking back to the history of Parliament and the country, as it related

to the laws of libel, he could find the best laws on the subject uniformly proposed and supported by high law characters, he confessed, he should admit himself guilty of high presumption in bringing such matters forward: but, when he recollected what was the history of such proceedings, that the cessation of the licensing power in Charles II, and James II, was not the work of such eminent persons—when he also remembered that in later years the Libel Bill, the recollection and consideration of which was naturally impressed upon his mind by many peculiar and important circumstances, (the Bill brought in by the late Mr. Fox), he confessed he could see no reason why any particular description of Noble Lords, however learned in their profession, should monopolize the proposition of every measure concerning the laws of the country (*Hear!*) Many reasons might even be seen, derived from a philosophical view of the subject, and from a consideration of human nature, why, even with the pure conscience, and abilities of the Noble Lord who was Chief Justice of the King's Bench, such learned persons were not to be expected to be the first on such subjects. It was natural for such persons to think no alterations necessary, and to say conscientiously for themselves, "We have only public justice in our eye." They were, perhaps, the least likely to suggest any limitations on the power of the officers of the law.

But neither of his motions went to meddle with the law of libel as it stood. Whether that branch of the laws of this country was or was not perfect, whether the definitions given of libel were near perfection or not, he did not mean to discuss. Perhaps the prejudices of his education, or some other circumstances might influence his judgment; he must say, whatever the Law of England was on the subject, that in his Utopia the branch of the Libel-law would be confined to a very short chapter indeed! (*Hear!*) He admitted what was said of the extreme difficulty of defining libels; but certainly the law had not solved that difficulty as he should like to see it in what might be called a complete Utopia! (*Hear!*) One great point to which he would call their attention was, that the crime of libel was, with the exception of treason, placed on a different footing from all others. It involved a problem, he allowed, which the wisdom of no society had yet succeeded in solving and thereby setting it free from the political feelings of the day, and the accidental interests and dispositions of those who might be at the head of the Administration of the country. The law of England had endeavoured to do more than others in this respect, by the intervention of a jury of twelve men. But in prosecutions on cases of libel, as of treason, those persons who must be the agents of the government were certainly more interested; or if that were an improper word, he would say, would have a bias towards viewing offences bordering on libels as great crimes, even where they were not so by any just definition of them. In the case of prosecution for robbery or felony, there was no description of persons interested in that manner. In the case of charges for treason, the government was, doubtless, biassed against those who might probably make a successful opposition to their proceedings. For that reason it appeared, that our law had defined carefully what was meant by the crime of treason, and had placed many guards against the conviction of an innocent man on the charge of that crime. This was much to the credit of our Legislature, and formed, perhaps, the best founded subject of panegyric of any in the whole fabric of the laws of England. He should wish to know why nothing of the same kind should exist with respect to libels? He desired to be understood that he was here speaking of state libels, and not of individual and personal slander. He conceived it to be quite clear, that even lawful discussion was often thought libellous by those in power, when it was disagreeable and opposite to their views. In this view of the matter, it might be seen that a free discussion of the conduct of the Members of Government would appear very near to a libel, when carried on in a mode that was unpleasant, while at the same time the conduct of the individual in doing so, might be useful and meritorious. That which came the nearest to a crime, might actually be beneficial to the community. Greater care ought therefore to be shewn, that innocence might not be punished; otherwise the undefined power was a terror to the liberty of the press, which was the great check upon the conduct of public men, and of great importance to the framing and administration of the public laws. (*Hear.*)

He wished now to call their Lordships to a particular point: the power of the Attorney-general to file his information *ex officio*. He had not risen to question the legality of this mode of proceeding, though he knew, at the same time, that men of great learning and authority had held that it was contrary to the law of this land. It appeared to him, that the stream of time gave evidence of what was the law of the land. An *obiter dictum* of Lord Hale's had been given that if these prosecutions by information *ex officio* were questioned, they could not stand. This had been mentioned by Sir Francis Winnington: but my Lord Holt had said that it was the abuse of such informations that had been intended by Lord Hale. He had great deference to the opinion of Lord Justice Holt; but he was not then questioning the legality. The abuse, however, was admitted to be a ground of complaint by that learned Judge. Now, as to the expediency of such a power existing, that was another and a general question, and was not necessary for his argument. Many persons, however, of eminent talents, and profound learning, and high distinction in the profession of the law, had expressed their opinions against *ex officio* informations. It was not so long since that had been done by Mr. Serjeant Glynn, by Mr. Wedderburne, afterwards Lord Loughborough, and by Mr. Dunning, afterwards Lord Ashburton, a person whom it did not fall to the lot of his time to know, but concerning whom all traditionary accounts agreed, in representing him as eminent in talents, profoundly versed in the laws and constitution of his country, and a sincere lover of liberty. He would say, that he (Mr. Dunning) whom the Noble and Learned Lord on the Woolsack had stated to have been his preceptor in legal knowledge, of whom he had heard that Noble and Learned Lord speak in such high and deserved terms of panegyric, had actually thrown down the gauntlet on the subject of these *ex officio* informations, and had declared that they could be practised only for the purpose of *abuse*. (*Hear!*) He was not now introducing the authorities of Lords Loughborough and Ashburton for the purpose of suppressing altogether these informations; but he might properly do it, at all events, in the way of apology for those who thought them unparalleled in the laws of our country, when they were perverted from the purposes for which they were intended. When he saw that, it was natural for him not to feel any great fear of giving his opinion that they were so abused. He would go further, and say, that if it could be shewn that they were intended by law to go to such an extent as he complained of, he, for his part, would rather risk all the dangers that it was imagined might accrue from an entire suppression of them, than leave them with the mere will of an individual, the Attorney-General, as the only rule for their use, or abuse.

There were, as their Lordships must know, three ways of proceeding in cases of libel: one by civil action; but this was not the way of proceeding against a libel criminally, though criminal prosecutions might, in some respects, have arisen from it. There were two other modes for prosecuting misdemeanors: one by indictment, and the other by information. He need not describe the mode of proceeding by indictment. It was sufficient to say, that there a Grand Jury of twelve men must interpose before the matter came into the Court, to be tried ultimately there by another jury of twelve men. In the case of information there were two modes; one in which the information was by the permission of the Court, which operated, so far, something like the first stage by indictment. The other mode was, the information *ex officio*. Previous to the Act of William III. and Mary, informations through the Crown office, and those by the Attorney-general, appeared to have been nearly the same. The preamble of that Act stated, that frivolous informations had been filed, that persons had been put to expense, and never brought to a trial; and enacted that persons should obtain the leave of the Court, & enter into recognizances to prosecute and that the defendant, on acquittal, should in such case, be entitled to costs. As, formerly, informations of both sorts, were resorted to, by the Crown officers, it was supposed that if the power was left in the hands of such a high Law officer, he would not be so likely to abuse his trust, & that persons would be proceeded against with the view of bringing them fairly to trial. They did not apply the other remedy to the cases *ex officio*, the Crown paying no costs. These informations were liable to abuse, because of the power they gave over all writers, even of those who favoured the existing power. The law, however, admitted of no proceeding by information in cases that concerned life or limb. Why was this the case, except it was because it was not considered a mode of prosecution so favourable to the individual prosecuted? It was admitted by Lord Hale, and the evidence was conclusive as to his regard for these proceedings, that "two things (says that Judge) are observable. First, that there is no proceeding by information against capital offences." Now, surely, Lord Hale could not mean to convey no more than this mere information, that capital offences were not so proceeded against; for he had said that before in his pleas of the Crown. Why? Because the merciful Law of England prevented this proceeding by information in cases of life and limb, it being, as he (Lord H.) had said already, thought less favourable to the accused party. Secondly, Lord Hale proceeds, "that in all criminal cases, the regular and safe way, and the way, more conformable to Magna Charta, and to the Statutes of Edward III. for proceeding, was, by the presentment of twelve sworn men." Here was Lord Hales's opinion. What could be his grounds for these remarks, when he admitted the proceeding by information to be conformable to the law, unless that he meant the inference that it was liable to abuse and oppression? O! but it might be said by some persons, that Lord Hale might have had a bias on his mind on that subject, from the abuses which he had witnessed in the times in which he lived! Well, then, let them hear what was said by the apologists for the practice. He should therefore refer to a more modern authority; but one whom he felt much pleasure and admiration in quoting, for he admired the perspicuity and simplicity of his style, & the many excellencies he discovered, particularly in making his subjects plain and clear to the understanding; he meant Mr. Justice Blackstone, who, however, could not be said to have the bias he had adverted to. His bias certainly was not against any thing existing in the administration of the laws. Excellent as his work was, it was a panegyric on the laws and constitution of England from beginning to end. He said, that it was a fact, that the Attorney-General could proceed by this mode of informations. He then goes on to give the reasons for it, as one who thought every thing good that did exist in the administration of our laws. He stated, that they were necessary to the existence of the British constitution. He said, that the object of those powers was to direct the proper prosecutions against such enormous misdemeanours as disturbed the Government of the country, and impeded the exercise of the Royal Functions, in which case, a moment's delay might produce the most fatal consequences. The power of immediate prosecution was therefore given to the King's Attorney-General, and it made a part of the great plan of the British Constitution. This shewed, that in cases where they were directed against purposes or acts not calling for an immediate prosecution, there was clearly a flagrant abuse. If he (Lord Holland) could shew to the House that such prosecutions had taken place, not only against such crimes as were thus considered of an inferior nature, and not of that enormous character of misdemeanour which alone required them; but also, that no prosecution was followed up in a great proportion of those cases, and that by this practice, the filing of an information was in many cases the fining the party in the expences; if he could prove this to the House, he would assert, that he had proved an abuse of this power which called upon their Lordships to search into the instances, and to devise some remedy against the repetition of the abuse.

He believed he had shewn the great liability to abuse of this power, which, like Goliah's sword, should be used only on great occasions; that he had shewn, that the law viewed it as the less favourable mode of prosecution for the individual, and therefore excluded it from cases of life and limb; and that it had been extended and perverted to a degree frightful to liberty. Formerly this mode had been made use of for extortion—then for oppression—now, it would appear, for influence! He must call it a perversion of the Attorney-General's power, and an abuse of it to extend it to such crimes as he had extended it to. After the time elapsed between the filing of the information and the period for trying it, if the information were against enormous misdemeanours, there would not be much doubt about bringing on the trial, in order to bring the criminal party to judgment: but if the prosecutions were left short in any of their further stages, was there not ground for suspicions of an attempt to exert an influence, particularly in the case of periodical publications? If he proved that from the year 1801 to the year 1806, only fourteen of these informations were filed *ex officio*; and that in the three succeeding years, they amounted to forty-two; if he proved these things, then it was to be maintained that high and enormous misdemeanours had greatly increased, misdemeanours of such a dangerous nature as not to admit of a moment's delay; was this to be maintained, when it should be proved that the fact was, that of these forty-two, the Attorney-General had been unable to bring more than sixteen to justice; while the Constitution remained, and Parliament was sitting as safely as before, notwithstanding all the dangers arising from six and twenty of these unpunished and enormous offenders? His Lordship said it was his wish to avoid noticing particular cases, and to consider the question generally, merely taking up any of them as matters of illustration. He should, therefore, remark that in addition to this encrease, the informations were often filed, not against the persons who committed the original offence, though they were near at hand, and quite within reach, but were directed against persons at a distance; and kept hanging over men's heads *in terrorem*. This part of the subject afforded the plainest evidence, that such an use of power must be intended for Influence and for terror! He did think that there ought to be some distinction between the malicious author of a libel, and another, who having no cognizance of its object, accidentally, and without the least malicious design, unfortunately inserted a copy of it, perhaps unknowingly.

The Noble Lord then proceeded to remark that while Sir A. Pigott, a Gentleman of the greatest legal knowledge, as well as of the most Constitutional principles, held the office of Attorney-general, there was only one ex officio information filed during the course of a whole year. That was for a most inflammatory address to certain regiments just on the point of embarkation for foreign service; which was supposed to have a direct tendency to produce mutiny among them, and to prevent them from going on board the transports. In that libel, if he might be permitted to call that a libel which was never brought to trial or conviction, there did appear immediate danger to be dreaded from its inflammatory tendency; and if such tendency had been actually proved, where, he would ask, could there be a worse or more malignant libel? But, the then Attorney-general was soon changed, and was succeeded by the present, who dropped this information that had been filed by his predecessor against the *Morning Post*, a newspaper which was well known to support the measures of Ministers. We were told, indeed, that this newspaper gave up the name of the author, but it so happened that he was not then in Britain; yet that circumstance seemed to have done away all the atrocity of the libel in the mind of the Attorney-general, for he issued a *nolo prosequi* in favour of the *Morning Post*, and the prosecution was abandoned. It was his (Lord Holland's) opinion, that in general the publishers and printers of articles supposed to be libellous, should be let go when their authors should be discovered. Had the Attorney-general this principle strongly impressed upon his mind, also, on that occasion? Why, then, had he acted since on very different principles? He would ask him, *Si justitiæ causa cur non in omnes, si misericordiæ cur in hanc?* When he saw that the paper so tenderly dealt with was precisely the one which was in political connection with Ministers, in his mind there was strong ground of suspicion that this power of filing ex officio informations in the breast of an individual was liable to abuse. He wished now to say a few words on the hardship of the proceedings frequently adopted on these informations. Were their Lordships aware that in the case of Crown prosecutions, when the defendants were acquitted, the King never pays costs? Were they aware of the extent of the expences to which individuals were often put, though declared to be innocent, or even when the prosecutions were dropped? In many instances, individuals in a class of life unable to bear heavy law charges were put to an expence of from 60 to 100l. even though their trial was never brought on at all. The summary

(*Continued in the Supplement.*)

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MARINE YARD,

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For further particulars apply to my Office in the Court Houſe.

J. BORTHWICK,
Commiſſioner.

BOMBAY, 30*th Auguſt* 1811.

વાજશ•આદમીરાલ•ટી•કોરટ

કોરટનાં•હોકમ•મુજબ•જાહેર•લીલામ•કરીને•શ્રી•મરીન•આદ•મધે•વેચ•શે•તારીખ ૩૧ મી•આગે•મહીનાનીએ•શનીશરવારને•દીને•બપોરનાં•કલાક ૧૨ નાં *

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J. BORTHWICK,
Commiſſioner.

BOMBAY 30*th Auguſt* 1811.

श्री

घडशाहीकोर्ट

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ईषपी

J. BORTHWICK,
Commiſſioner.

BOMBAY 30*th Auguſt* 1811.

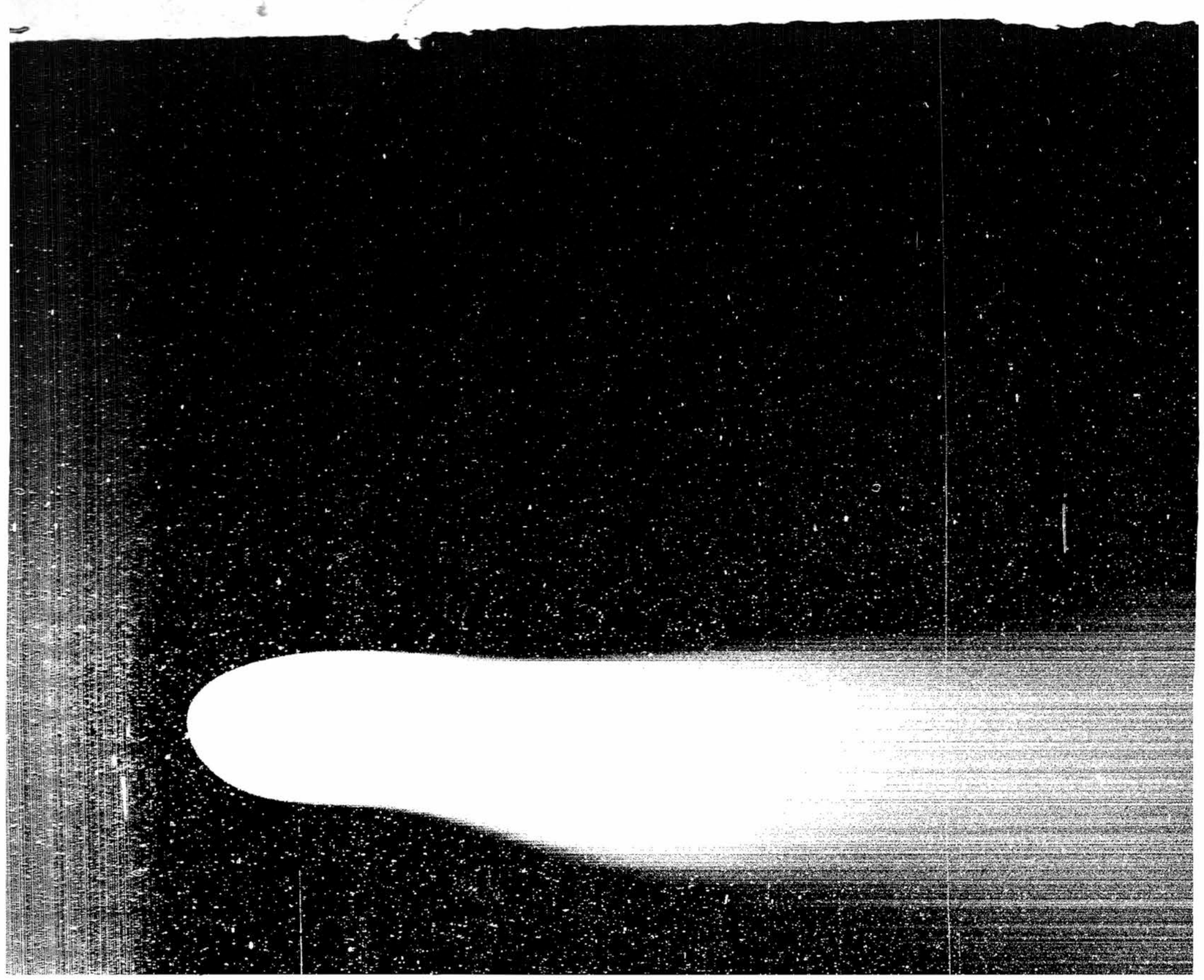
COURIER PRESS.

The Funeral of the late HONORABLE JONATHAN DUNCAN Esq. is poſtponed till tomorrow evening at four o'Clock in conſequence of the ſtate of weather.

F. WARDEN,
J. BACKHOUSE,
W. NEWNHAM,

MONDAY, 12TH 1811.

N. B. The body will lie in State at the Government Houſe between the hours of 6 and 10 this evening.



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